

FIRMS AND ASSOCIATIONS

Rule 5.1. Responsibilities of Partners, Managers, and Supervisory Licensed Paralegal Practitioners.

(a) A partner in a firm of licensed paralegal practitioners, and a licensed paralegal practitioner who individually or together with other licensed paralegal practitioners possesses comparable managerial authority in a firm of licensed paralegal practitioners, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all licensed paralegal practitioners in the firm conform to these Licensed Paralegal Practitioner Rules of Professional Conduct.

(b) A licensed paralegal practitioner having direct supervisory authority over another licensed paralegal practitioner shall make reasonable efforts to ensure that the other licensed paralegal practitioner conforms to the Licensed Paralegal Practitioner Rules of Professional Conduct.

(c) A licensed paralegal practitioner shall be responsible for another licensed paralegal practitioner's violation of the Licensed Paralegal Practitioner Rules of Professional Conduct if:

(c)(1) The licensed paralegal practitioner orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(c)(2) The licensed paralegal practitioner is a partner or has comparable managerial authority in the firm of licensed paralegal practitioners in which the other licensed paralegal practitioner practices or has direct supervisory authority over the other licensed paralegal practitioner, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Comment

[1] Paragraph (a) applies to licensed paralegal practitioners who have managerial authority over the professional work of a firm of licensed paralegal practitioners. This includes members of a partnership, the shareholders in a firm organized as a professional corporation and members of other associations authorized to practice law as licensed paralegal practitioners; and licensed paralegal practitioners who have intermediate managerial responsibilities in a firm of licensed

30 paralegal practitioners. Paragraph (b) applies to licensed paralegal practitioners who have
31 supervisory authority over the work of other licensed paralegal practitioners in a firm.

32 [2] Paragraph (a) requires licensed paralegal practitioners with managerial authority within a
33 firm of licensed paralegal practitioners to make reasonable efforts to establish internal policies
34 and procedures designed to provide reasonable assurance that all licensed paralegal practitioners
35 in the firm will conform to the Licensed Paralegal Practitioner Rules of Professional Conduct.
36 Such policies and procedures include those designed to detect and resolve conflicts of interest,
37 identify dates by which actions must be taken in pending matters, account for client funds and
38 property and ensure that inexperienced licensed paralegal practitioners are properly supervised.
39 The responsibility for the firm's compliance with paragraph (a) resides with each partner, or
40 other licensed paralegal practitioner in the firm with comparable authority. Even though the
41 concept of firm discipline is possible, a firm should not be responsible in the absence of
42 individual culpability for a rule violation.

43 [3] Other measures that may be required to fulfill the responsibility prescribed in paragraph (a)
44 can depend on the firm's structure and the nature of its practice. In a small firm of experienced
45 licensed paralegal practitioners, informal supervision and periodic review of compliance with the
46 required systems ordinarily will suffice. In a large firm, or in practice situations in which
47 difficult ethical problems frequently arise, more elaborate measures may be necessary. Some
48 firms, for example, may put in place a procedure whereby junior licensed paralegal practitioners
49 can make confidential referral of ethical problems directly to a designated partner or special
50 committee. See Rule 5.2. Firms, whether large or small, may also rely on continuing education in
51 professional ethics. In any event, the ethical atmosphere of a firm can influence the conduct of all
52 its members and the partners may not assume that all licensed paralegal practitioners associated
53 with the firm will inevitably conform to the Rules.

54 [4] Paragraph (c)(1) expresses a general principle of personal responsibility for acts of another.
55 See also Rule 8.4(a).

56 [5] Paragraph (c)(2) defines the duty of a partner or other licensed paralegal practitioner having
57 comparable managerial authority in a firm of licensed paralegal practitioners, as well as a
58 licensed paralegal practitioner who has direct supervisory authority over performance of specific
59 legal work by another licensed paralegal practitioner. Whether a licensed paralegal practitioner

60 has such supervisory authority in particular circumstances is a question of fact. Partners and
61 licensed paralegal practitioners with comparable authority have at least indirect responsibility for
62 all work being done by the firm, while a partner or manager in charge of a particular matter
63 ordinarily also has supervisory responsibility for the work of other firm licensed paralegal
64 practitioners engaged in the matter. Appropriate remedial action by a partner or managing
65 licensed paralegal practitioner would depend on the immediacy of that licensed paralegal
66 practitioner's involvement and the seriousness of the misconduct. A supervisor is required to
67 intervene to prevent avoidable consequences of misconduct if the supervisor knows that the
68 misconduct occurred. Thus, if a supervising licensed paralegal practitioner knows that a
69 subordinate misrepresented a matter to an opposing party in negotiation, the supervisor as well as
70 the subordinate has a duty to correct the resulting misapprehension.

71 [6] Professional misconduct by a licensed paralegal practitioner under supervision could reveal a
72 violation of paragraph (b) on the part of the supervisory licensed paralegal practitioner even
73 though it does not entail a violation of paragraph (c) because there was no direction, ratification
74 or knowledge of the violation.

75 [7] Apart from this Rule and Rule 8.4(a), a licensed paralegal practitioner does not have
76 disciplinary liability for the conduct of a partner, associate or subordinate. Whether a licensed
77 paralegal practitioner may be liable civilly or criminally for another licensed paralegal
78 practitioner's conduct is a question of law beyond the scope of these Rules.

79 [8] The duties imposed by this rule on managing and supervising licensed paralegal practitioners
80 do not alter the personal duty of each licensed paralegal practitioner in a firm to abide by the
81 Licensed Paralegal Practitioner Rules of Professional Conduct. See Rule 5.2(a).